

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TAVARIS L. MOSS,)	
)	
Plaintiff,)	
vs.)	NO. CIV-11-154-D
)	
JOHN MIDDLETON, Assistant Warden, et al.,)	
)	
Defendants.)	

ORDER

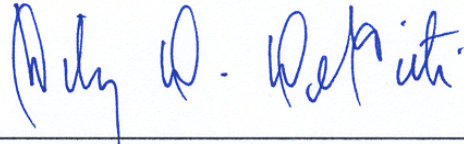
Plaintiff, a state inmate appearing *pro se*, brought this action pursuant to 42 U. S. C. § 1983, alleging violations of his constitutional rights. Pursuant to 28 U. S. C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Robert E. Bacharach. Defendants John Middleton, Joseph Taylor, John Hilligoss, Don Steer, Laurel Bogert, Tommy Battles, and Ray Choate¹ filed a motion to dismiss, which Judge Bacharach treated as a motion for summary judgment. The parties fully briefed the motion and, on December 5, 2011, the Magistrate Judge filed a Report and Recommendation [Doc. No. 64] in which he recommended that the motion for summary judgment be granted as to Counts One, Two and Five of the Second Amended Complaint. The Magistrate Judge also recommended that Counts Three and Four be summarily dismissed as facially invalid pursuant to 28 U. S. C. § 1915(e).

In the Report and Recommendation, the Magistrate Judge advised Plaintiff of his right to object to the factual findings and legal conclusions addressed therein, and he scheduled a December 22, 2011 deadline for filing objections. The Magistrate Judge also expressly cautioned Plaintiff that

¹The movants are the only remaining defendants in this case, as the Court dismissed Plaintiff's claims against the only other defendant, Justin Jones, by Order of November 29, 2011 [Doc. No. 63].

his failure to timely object would constitute a waiver of his right to appellate review of the matters addressed in the Report and Recommendation. The deadline for filing objections has expired, and Plaintiff has not objected or sought an extension of time in which to file objections. Accordingly, the Report and Recommendation [Doc. No. 64] is adopted as though fully set forth herein. The motion for summary judgment is granted as to Counts One, Two, and Five; Counts Three and Four are summarily dismissed as facially invalid.

IT IS SO ORDERED this 12th day of January, 2012.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE